

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Paul Gassoway
Serial No.: 10/849,318
Filing Date: May 19, 2004
Group Art Unit: 2136
Examiner: Oscar A. Louie
Confirmation No. 5789
Title: Method and Systems for Computer Security

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicant respectfully requests reconsideration of the application in light of the remarks set forth below.

REMARKS

Applicant received a Final Office Action dated May 26, 2010 ("Office Action") to which Applicant responded with a response dated July 26, 2010 ("Previous Response"), after which, Applicant received an Advisory Action dated August 9, 2010 ("Advisory Action"). At the time of the Advisory Action, Claims 1-24 were pending, of which, Claims 1-24 were rejected. Applicant seeks review of the rejections of Claims 1-24.

Rejections under 35 U.S.C. § 103

i. Claims 1-4, 7-10, 13-16, and 19-22

The Examiner rejects Claims 1-4, 7-10, 13-16, and 19-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,279,113 issued to Vaidya ("*Vaidya*") in view of U.S. Publication No. 20050037733 issued to Coleman et al. ("*Coleman*"). Applicant respectfully traverses these rejections for at least the reasons discussed below.

In order to establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. See M.P.E.P. § 2143.

Claim 1 recites, in part:

comparing the received data with the database of signatures;
increasing the system certainty value if the received data does not
match a signature in the database;
decreasing the system certainty value if the received data matches a
signature in the database; and
filtering the data based on the system certainty value and the signature
certainty value of a signature matching the received data.

Applicant respectfully contends that the proposed *Vaidya-Coleman* combination fails to disclose, teach, or suggest every limitation of Claim 1. The Office Action relies on *Coleman* to disclose the limitations "determining an initial system certainty value for the computer system," "increasing the system certainty value if the received data does not match a signature in the database," and "decreasing the system certainty value if the received data matches a signature in the database." *Office Action*, pgs. 5-8.

In rejecting these claims, the Office Action relies on the "mistrust level for each wireless network device" as reciting an initial system certainty value for the computer system. *Office Action*, pg. 5. Applicant respectfully disagrees. These mistrust levels

correspond to individual levels associated with each wireless network device located within a computer system. There is no disclosure, teaching, or suggestion of a single initial system certainty value for the computer system.

Furthermore, even if the Office Action's proposed mapping is correct (a point Applicant does not concede), Applicant respectfully contends that *Coleman* fails to disclose, teach, or suggest the "increasing" and "decreasing" claim limitations. For instance, *Coleman* clearly states that "mistrust level decrementing is accomplished based on three parameters, described as follows: (1) a decrement timer D1 exceeds a mistrust level decrement interval from the operational protection suite; (2) mistrust level four has been reached, the wireless network device 36, 38 successfully re-authenticates, and re-login is also successful; (3) manual intervention 90 from the network administrator 92." *Coleman*, ¶ 0121. Therefore, *Coleman* discloses a decrementing step based only on timing, manual intervention, or re-authentication. There is no disclosure, teaching, or suggestion that matching or not matching a signature plays any role in this step.

In response to these arguments, the Office Action states "'matching signatures' specifically the 'signatures' can be any criteria that are deemed as an intrusion that is then matched or determined to be a known intrusion." *Office Action*, pg. 13. The Advisory Action further states that decrementing could be based on "any event that would trigger a responsive action." *Advisory Action*, pg. 2. Despite these unsupported assertions, Applicants respectfully maintains that *Coleman* discloses "decrementing" based only on the three criteria listed above. This fails to disclose a decrementing step based on "any criteria that are deemed as an intrusion that is then matched." Therefore, even under the Office Action's proposed "broadest" interpretation, this cited portion fails to disclose, teach, or suggest "decreasing the system certainty value if the received data matches a signature in the database." Accordingly, Applicant respectfully requests reconsideration and allowance of independent Claim 1, along with its dependent claims. For substantially similar reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 7, 13, and 19, along with their respective dependent claims.

Additionally, Claim 3, which depends from independent Claim 1, discloses that the increased or decreased certainty value becomes the initial system value. First of all, as discussed above, *Coleman* fails to disclose, teach, or suggest a "system certainty value." Furthermore, the cited portion of *Coleman* merely discloses that the mistrust level for

individual network devices is “initialized to zero, then incremented and/or decremented.” *Coleman*, ¶ 0102. However, there is no disclosure, teaching, or suggestion that the incremented or decremented device mistrust level “becomes the initial system value.” *Vaidya* fails to cure this deficiency. Accordingly, Applicant respectfully contends that Claim 3 is patentably distinguishable from the references cited by the Examiner. Claims 9, 15, and 21 are patentably distinguishable for analogous reasons.

ii. Claims 5-6, 11-12, 17-18, and 23-24

The Examiner also rejects Claims 5, 11, 17, and 23 under 35 U.S.C. § 103(a) as being unpatentable over *Vaidya* in view of *Coleman*, in view of U.S. Publication No. 20040172557 issued to Nakae et al. (“*Nakae*”); and Claims 6, 12, 18, and 24 under 35 U.S.C. § 103(a) as being unpatentable over *Vaidya* in view of *Coleman*, in view of *Nakae*, and in view of U.S. Patent No. 7,032,114 issued to Moran (“*Moran*”). Applicant respectfully traverses these rejections for at least the reasons discussed below.

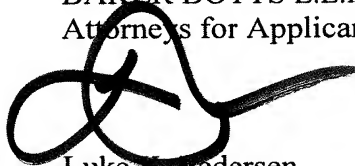
As shown above, Applicant respectfully contends that the proposed *Vaidya-Coleman* combination fails to disclose, teach, or suggest every limitation of the independent base claims. The additional cited references fail to cure these deficiencies. As such, Applicant respectfully contends that Claims 5-6, 11-12, 17-18, and 23-24 are allowable over the cited references. Accordingly, Applicant requests reconsideration and allowance of Claims 5-6, 11-12, 17-18, and 23-24.

Additionally, Claim 6, which depends from Claim 1, discloses that the step of forwarding further comprises generating a message log to indicate that data matching a signature was forwarded. The Examiner admits that *Vaidya*, *Coleman*, and *Nakae* fail to disclose this limitation and relies instead on *Moran*. However, the cited portion discloses “a mechanism for checking timestamps, configured to identify backward and forward time steps in a log file.” *Moran*, col. 4, lines 28-31. While this discloses identifying time steps in a log file, *Moran* fails to disclose, teach, or suggest actually generating a log file, much less a log file that indicates that data matching a signature was forwarded. Accordingly, Applicant respectfully contends that Claim 6 is patentably distinguishable from the cited references. Claims 12, 18, and 24 are patentably distinguishable for analogous reasons.

Conclusion

As the rejections of Claims 1-24 contain clear legal and factual deficiencies, Applicant respectfully requests a finding of allowance of Claims 1-24. If the PTO determines that an interview is appropriate, Applicant would appreciate the opportunity to participate in such an interview. To the extent necessary, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. **02-0384** of **Baker Botts L.L.P.**

Respectfully submitted,
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